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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA, EASTERN DIVISION

MAG INSTRUMENT, INC.  
Plaintiff,  
  
v.  
GBT GmbH,  
Defendant.  
  
GBT GmbH,  
  
Counterclaimant  
  
v.  
MAG INSTRUMENT, INC., and  
MAGLITE EUROPE,  
  
Counterdefendants

Case No. 5:22-cv-01742-JGB (SPx)  
*[Assigned to Hon. Jesus G. Bernal,  
Courtroom 1;  
Magistrate Judge: Hon. Sheri Pym,  
Courtroom 550]*

**STIPULATED PROTECTIVE  
ORDER**

**CASE COMMENCED:  
OCTOBER 5, 2022**



1 In light of the nature of the claims and allegations in this case and the parties’  
 2 representations that discovery in this case will involve the production of confidential  
 3 records, and in order to expedite the flow of information, to facilitate the prompt  
 4 resolution of disputes over confidentiality of discovery materials, to adequately  
 5 protect information the parties are entitled to keep confidential, to ensure that the  
 6 parties are permitted reasonable necessary uses of such material in connection with  
 7 this action, to address their handling of such material at the end of the litigation, and  
 8 to serve the ends of justice, a protective order for such information is justified in this  
 9 matter. The parties shall not designate any information/documents as confidential  
 10 without a good faith belief that such information/documents have been maintained  
 11 in a confidential, non-public manner, and that there is good cause or a compelling  
 12 reason why it should not be part of the public record of this case.

## 13 2. DEFINITIONS

14 2.1 Action: The instant action: MAG INSTRUMENT, INC. v. GBT  
 15 GmbH, Case No. 5:22-cv-01742-JGB (SPx).

16 2.2 Challenging Party: a Party or Non-Party that challenges the  
 17 designation of information or items under this Order.

18 2.3 “CONFIDENTIAL” Information or Items: information (regardless of  
 19 how it is generated, stored or maintained) or tangible things that qualify for  
 20 protection under Federal Rule of Civil Procedure 26(c), and as specified above in  
 21 the Good Cause Statement.

22 2.4 “HIGHLY CONFIDENTIAL -- ATTORNEYS’ EYES ONLY”  
 23 Information or Items: extremely sensitive “CONFIDENTIAL” Information or  
 24 Items, the disclosure of which to another Party or Non-Party would create a  
 25 substantial risk of serious harm that could not be avoided by less restrictive means.

26 2.5 Counsel: Outside Counsel of Record and House Counsel (as well as  
 27 their support staff).  
 28

1           2.6    Designating Party: a Party or Non-Party that designates information or  
2 items that it produces in disclosures or in responses to discovery as  
3 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL -- ATTORNEYS’ EYES  
4 ONLY.”

5           2.7    Disclosure or Discovery Material: all items or information, regardless  
6 of the medium or manner in which it is generated, stored, or maintained (including,  
7 among other things, testimony, transcripts, and tangible things), that are produced or  
8 generated in disclosures or responses to discovery in this matter.

9           2.8    Expert: a person with specialized knowledge or experience in a matter  
10 pertinent to the litigation who has been retained by a Party or its counsel to serve as  
11 an expert witness or as a consultant in this Action.

12           2.9    House Counsel: attorneys who are employees of a party to this Action.  
13 House Counsel does not include Outside Counsel of Record or any other outside  
14 counsel.

15           2.10   Non-Party: any natural person, partnership, corporation, association, or  
16 other legal entity not named as a Party to this action.

17           2.11   Outside Counsel of Record: attorneys who are not employees of a  
18 party to this Action but are retained to represent or advise a party to this Action and  
19 have appeared in this Action on behalf of that party or are affiliated with a law firm  
20 which has appeared on behalf of that party, and includes support staff.

21           2.12   Party: any party to this Action, including all of its officers, directors,  
22 employees, consultants, retained experts, and Outside Counsel of Record (and their  
23 support staffs).

24           2.13   Producing Party: a Party or Non-Party that produces Disclosure or  
25 Discovery Material in this Action.

26           2.14   Professional Vendors: persons or entities that provide litigation  
27 support services (e.g., photocopying, videotaping, translating, preparing exhibits or  
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1 demonstrations, and organizing, storing, or retrieving data in any form or medium)  
2 and their employees and subcontractors.

3 2.15 Protected Material: any Disclosure or Discovery Material that is  
4 designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL --  
5 ATTORNEYS’ EYES ONLY.”

6 2.16 Receiving Party: a Party that receives Disclosure or Discovery  
7 Material from a Producing Party.

8 3. SCOPE

9 The protections conferred by this Order cover not only Protected Material (as  
10 defined above), but also (1) any information copied or extracted from Protected  
11 Material; (2) all copies, excerpts, summaries, or compilations of Protected Material;  
12 and (3) any deposition testimony, conversations, or presentations by Parties or their  
13 Counsel that might reveal Protected Material, other than during a court hearing or at  
14 trial.

15 Any use of Protected Material during a court hearing or at trial shall be  
16 governed by the orders of the presiding judge. This Order does not govern the use  
17 of Protected Material during a court hearing or at trial.

18 4. DURATION

19 Even after final disposition of this litigation, the confidentiality obligations  
20 imposed by this Order shall remain in effect until a Designating Party agrees  
21 otherwise in writing or a court order otherwise directs. Final disposition shall be  
22 deemed to be the later of (1) dismissal of all claims and defenses in this Action, with  
23 or without prejudice; and (2) final judgment herein after the completion and  
24 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,  
25 including the time limits for filing any motions or applications for extension of time  
26 pursuant to applicable law.

27 5. DESIGNATING PROTECTED MATERIAL

1           5.1   Exercise of Restraint and Care in Designating Material for Protection.

2   Each Party or Non-Party that designates information or items for protection under  
3   this Order must take care to limit any such designation to specific material that  
4   qualifies under the appropriate standards. The Designating Party must designate for  
5   protection only those parts of material, documents, items, or oral or written  
6   communications that qualify so that other portions of the material, documents,  
7   items, or communications for which protection is not warranted are not swept  
8   unjustifiably within the ambit of this Order.

9           Designations that are shown to be clearly unjustified or that have been made  
10   for an improper purpose (e.g., to unnecessarily encumber the case development  
11   process or to impose unnecessary expenses and burdens on other parties) may  
12   expose the Designating Party to sanctions.

13           If it comes to a Designating Party's attention that information or items that it  
14   designated for protection do not qualify for protection, that Designating Party must  
15   promptly notify all other Parties that it is withdrawing the inapplicable designation.

16           5.2   Manner and Timing of Designations. Except as otherwise provided in  
17   this Order (see, e.g., second paragraph of Section 5.2(a) below), or as otherwise  
18   stipulated or ordered, Disclosure or Discovery Material that qualifies for protection  
19   under this Order must be clearly so designated before the material is disclosed or  
20   produced.

21           Designation in conformity with this Order requires:

22           (a) for information in documentary form (e.g., paper or electronic  
23   documents, but excluding transcripts of depositions), that the Producing Party affix  
24   at a minimum, the legend "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL --  
25   ATTORNEYS' EYES ONLY" to each page that contains protected material. If  
26   only a portion or portions of the material on a page qualifies for protection, the  
27   Producing Party also must clearly identify the protected portion(s) (e.g., by making  
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1 appropriate markings in the margins).

2 A Party or Non-Party that makes original documents available for inspection  
3 need not designate them for protection until after the inspecting Party has indicated  
4 which documents it would like copied and produced. During the inspection and  
5 before the designation, all of the material made available for inspection shall be  
6 deemed "CONFIDENTIAL." After the inspecting Party has identified the  
7 documents it wants copied and produced, the Producing Party must determine which  
8 documents, or portions thereof, qualify for protection under this Order. Then,  
9 before producing the specified documents, the Producing Party must affix the  
10 "CONFIDENTIAL", or "HIGHLY CONFIDENTIAL -- ATTORNEYS' EYES  
11 ONLY" legend to each page that contains Protected Material. If only a portion or  
12 portions of the material on a page qualifies for protection, the Producing Party also  
13 must clearly identify the protected portion(s) (e.g., by making appropriate markings  
14 in the margins).

15 (b) for testimony given in depositions that the Designating Party identifies  
16 on the record, before the close of the deposition as protected testimony.

17 (c) for information produced in some form other than documentary and  
18 for any other tangible items, that the Producing Party affix in a prominent place on  
19 the exterior of the container or containers in which the information is stored the  
20 legend "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL -- ATTORNEYS'  
21 EYES ONLY." If only a portion or portions of the information warrants protection,  
22 the Producing Party, to the extent practicable, shall identify the protected portion(s).

23 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent  
24 failure to designate qualified information or items does not, standing alone, waive  
25 the Designating Party's right to secure protection under this Order for such material.  
26 Upon timely correction of a designation, the Receiving Party must make reasonable  
27 efforts to assure that the material is treated in accordance with the provisions of this  
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Order.

## 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of confidentiality at any time that is consistent with the Court's Scheduling Order.

6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution process under Local Rule 37-1 et seq.

6.3 The burden of persuasion in any such challenge proceeding shall be on the Designating Party. Frivolous challenges, and those made for an improper purpose (e.g., to harass or impose unnecessary expenses and burdens on other parties) may expose the Challenging Party to sanctions. Unless the Designating Party has waived or withdrawn the confidentiality designation, all parties shall continue to afford the material in question the level of protection to which it is entitled under the Producing Party's designation until the Court rules on the challenge.

## 7. ACCESS TO AND USE OF PROTECTED MATERIAL

7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or produced by another Party or by a Non-Party in connection with this Action only for prosecuting, defending, or attempting to settle this Action. Such Protected Material may be disclosed only to the categories of persons and under the conditions described in this Order. When the Action has been terminated, a Receiving Party must comply with the provisions of Section 13 below.

Protected Material must be stored and maintained by a Receiving Party at a location and in a secure manner that ensures that access is limited to the persons authorized under this Order.

7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise ordered by the court or permitted in writing by the Designating Party, a



1 Receiving Party may disclose any information or item designated

2 “CONFIDENTIAL” only to:

3 (a) the Receiving Party’s Outside Counsel of Record in this Action, as  
4 well as employees of said Outside Counsel of Record to whom it is reasonably  
5 necessary to disclose the information for this Action;

6 (b) the officers, directors, and employees (including House Counsel) of  
7 the Receiving Party to whom disclosure is reasonably necessary for this Action;

8 (c) Experts (as defined in this Order) of the Receiving Party to whom  
9 disclosure is reasonably necessary for this Action and who have signed the  
10 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

11 (d) the court and its personnel;

12 (e) private court reporters and their staff to whom disclosure is reasonably  
13 necessary for this Action and who have signed the “Acknowledgment and  
14 Agreement to Be Bound” (Exhibit A);

15 (f) professional jury or trial consultants, mock jurors, and Professional  
16 Vendors to whom disclosure is reasonably necessary for this Action and who have  
17 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

18 (g) the author or recipient of a document containing the information or a  
19 custodian or other person who otherwise possessed or knew the information;

20 (h) during their depositions, witnesses, and attorneys for witnesses, in the  
21 Action to whom disclosure is reasonably necessary provided: (1) the deposing party  
22 requests that the witness sign the “Acknowledgment and Agreement to Be Bound”  
23 (Exhibit A); and (2) they will not be permitted to keep any confidential information  
24 unless they sign the “Acknowledgment and Agreement to Be Bound” (Exhibit A),  
25 unless otherwise agreed by the Designating Party or ordered by the court. Pages of  
26 transcribed deposition testimony or exhibits to depositions that reveal Protected  
27 Material may be separately bound by the court reporter and may not be disclosed to  
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1 anyone except as permitted under this Protective Order; and

2 (i) any mediator or settlement officer, and their supporting personnel,  
3 mutually agreed upon by any of the parties engaged in settlement discussions.

4 7.3 Disclosure of “HIGHLY CONFIDENTIAL -- ATTORNEYS’ EYES  
5 ONLY” Information or Items. Unless otherwise ordered by the court or permitted in  
6 writing by the Designating Party, a Receiving Party may disclose any information or  
7 item designated “HIGHLY CONFIDENTIAL” only to:

8 (a) the Receiving Party’s Outside Counsel of Record in this Action, as well  
9 as employees of said Outside Counsel of Record to whom it is reasonably necessary  
10 to disclose the information for this Action;

11 (b) Experts (as defined in this Order) of the Receiving Party to whom  
12 disclosure is reasonably necessary for this Action and who have signed the  
13 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

14 (c) the court and its personnel;

15 (d) private court reporters and their staff to whom disclosure is reasonably  
16 necessary for this Action and who have signed the “Acknowledgment and  
17 Agreement to Be Bound” (Exhibit A);

18 (e) professional jury or trial consultants, mock jurors, and Professional  
19 Vendors to whom disclosure is reasonably necessary for this Action and who have  
20 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

21 (f) the author or recipient of a document containing the information or a  
22 custodian or other person who otherwise possessed or knew the information; and

23 (g) any mediator or settlement officer, and their supporting personnel,  
24 mutually agreed upon by any of the parties engaged in settlement discussions.

25 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED  
26 PRODUCED IN OTHER LITIGATION

27 If a Party is served with a subpoena or a court order issued in other litigation  
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1 that compels disclosure of any information or items designated in this Action as  
 2 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL -- ATTORNEYS’ EYES  
 3 ONLY,” that Party must:

4 (a) promptly notify in writing the Designating Party. Such notification  
 5 shall include a copy of the subpoena or court order unless prohibited by law;

6 (b) promptly notify in writing the party who caused the subpoena or order  
 7 to issue in the other litigation that some or all of the material covered by the  
 8 subpoena or order is subject to this Protective Order. Such notification shall include  
 9 a copy of this Protective Order; and

10 (c) cooperate with respect to all reasonable procedures sought to be  
 11 pursued by the Designating Party whose Protected Material may be affected.

12 If the Designating Party timely seeks a protective order, the Party served with  
 13 the subpoena or court order shall not produce any information designated in this  
 14 action as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL -- ATTORNEYS’  
 15 EYES ONLY” before a determination by the court from which the subpoena or  
 16 order issued, unless the Party has obtained the Designating Party’s permission, or  
 17 unless otherwise required by the law or court order. The Designating Party shall  
 18 bear the burden and expense of seeking protection in that court of its confidential  
 19 material and nothing in these provisions should be construed as authorizing or  
 20 encouraging a Receiving Party in this Action to disobey a lawful directive from  
 21 another court.

22 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE  
 23 PRODUCED IN THIS LITIGATION

24 (a) The terms of this Order are applicable to information produced by a  
 25 Non-Party in this Action and designated as “CONFIDENTIAL” or “HIGHLY  
 26 CONFIDENTIAL -- ATTORNEYS’ EYES ONLY.” Such information produced by  
 27 Non-Parties in connection with this litigation is protected by the remedies and relief  
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1 provided by this Order. Nothing in these provisions should be construed as  
2 prohibiting a Non-Party from seeking additional protections.

3 (b) In the event that a Party is required, by a valid discovery request, to  
4 produce a Non-Party's confidential information in its possession, and the Party is  
5 subject to an agreement with the Non-Party not to produce the Non-Party's  
6 confidential information, then the Party shall:

7 (1) promptly notify in writing the Requesting Party and the Non-Party  
8 that some or all of the information requested is subject to a confidentiality  
9 agreement with a Non-Party;

10 (2) promptly provide the Non-Party with a copy of the Protective  
11 Order in this Action, the relevant discovery request(s), and a reasonably specific  
12 description of the information requested; and

13 (3) make the information requested available for inspection by the  
14 Non-Party, if requested.

15 (c) If a Non-Party represented by counsel fails to commence the process  
16 called for by Local Rules 45-1 and 37-1, et seq. within 14 days of receiving the  
17 notice and accompanying information or fails contemporaneously to notify the  
18 Receiving Party that it has done so, the Receiving Party may produce the Non-  
19 Party's confidential information responsive to the discovery request. If an  
20 unrepresented Non-Party fails to seek a protective order from this court within 14  
21 days of receiving the notice and accompanying information, the Receiving Party  
22 may produce the Non-Party's confidential information responsive to the discovery  
23 request. If the Non-Party timely seeks a protective order, the Receiving Party shall  
24 not produce any information in its possession or control that is subject to the  
25 confidentiality agreement with the Non-Party before a determination by the court  
26 unless otherwise required by the law or court order. Absent a court order to the  
27 contrary, the Non-Party shall bear the burden and expense of seeking protection in  
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1 this court of its Protected Material.

2 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

3 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed  
4 Protected Material to any person or in any circumstance not authorized under this  
5 Protective Order, the Receiving Party must immediately (a) notify in writing the  
6 Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve  
7 all unauthorized copies of the Protected Material, (c) inform the person or persons to  
8 whom unauthorized disclosures were made of all the terms of this Order, and  
9 (d) request such person or persons to execute the “Acknowledgment and Agreement  
10 to Be Bound” (Exhibit A).

11 11. INADVERTENT PRODUCTION OF PRIVILEGED OR  
12 OTHERWISE PROTECTED MATERIAL

13 When a Producing Party gives notice to Receiving Parties that certain  
14 inadvertently produced material is subject to a claim of privilege or other protection,  
15 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil  
16 Procedure 26(b)(5)(B). This provision is not intended to modify whatever  
17 procedure may be established in an e-discovery order that provides for production  
18 without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and  
19 (e), insofar as the parties reach an agreement on the effect of disclosure of a  
20 communication or information covered by the attorney-client privilege or work  
21 product protection, the parties may incorporate their agreement into this Protective  
22 Order.

23 12. MISCELLANEOUS

24 12.1 Right to Further Relief. Nothing in this Order abridges the right of any  
25 person to seek its modification by the Court in the future.

26 12.2 Right to Assert Other Objections. No Party waives any right it  
27 otherwise would have to object to disclosing or producing any information or item  
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1 on any ground not addressed in this Protective Order. Similarly, no Party waives  
2 any right to object on any ground to use in evidence of any of the material covered  
3 by this Protective Order.

4 12.3 Filing Protected Material. A Party that seeks to file under seal any  
5 Protected Material must comply with Civil Local Rule 79-5 and with any pertinent  
6 orders of the assigned District Judge and Magistrate Judge. Protected Material may  
7 only be filed under seal pursuant to a court order authorizing the sealing of the  
8 specific Protected Material at issue. If a Party's request to file Protected Material  
9 under seal is denied by the court, then the Receiving Party may file the information  
10 in the public record unless otherwise instructed by the court.

11 13. FINAL DISPOSITION

12 After the final disposition of this Action, as defined in Section 4, within 60  
13 days of a written request by the Designating Party, each Receiving Party must return  
14 all Protected Material to the Producing Party or destroy such material. As used in  
15 this subdivision, "all Protected Material" includes all copies, abstracts, compilations,  
16 summaries, and any other format reproducing or capturing any of the Protected  
17 Material. Whether the Protected Material is returned or destroyed, the Receiving  
18 Party must submit a written certification to the Producing Party (and, if not the same  
19 person or entity, to the Designating Party) by the 60 day deadline that (1) identifies  
20 (by category, where appropriate) all the Protected Material that was returned or  
21 destroyed and (2) affirms that the Receiving Party has not retained any copies,  
22 abstracts, compilations, summaries or any other format reproducing or capturing any  
23 of the Protected Material. Notwithstanding this provision, Counsel are entitled to  
24 retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing  
25 transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert  
26 reports, attorney work product, and consultant and expert work product, even if such  
27 materials contain Protected Material. Any such archival copies that contain or  
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1 constitute Protected Material remain subject to this Protective Order as set forth in  
2 Section 4.

3 14. Any violation of this Order may be punished by any and all appropriate  
4 measures including, without limitation, contempt proceedings and/or monetary  
5 sanctions.

6  
7  
8 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

9  
10 DATED: June 13, 2023 /s/  
11 WAGNER ANDERSON, & BRIGHT P.C.  
12 Roy Anderson  
13 Attorney for Plaintiff/Counterdefendant  
14 MAG INSTRUMENT, INC., and  
15 MAGLITE EUROPE

16 DATED: June 13, 2023 /s/  
17 K&L GATES LLP  
18 Ryan Q. Keech  
19 Attorney for Defendant/Counterclaimant  
20 GBT GmbH

21 **IT IS SO ORDERED.**

22 DATED: June 15, 2023

23  
24   
25 Honorable Sheri Pym  
26 United States Magistrate Judge  
27  
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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, \_\_\_\_\_ [print or type full name], of  
\_\_\_\_\_ [print or type full address], declare under penalty of perjury that  
I have read in its entirety and understand the Protective Order that was issued by the  
United States District Court for the Central District of California on  
\_\_\_\_\_ in the case of MAG INSTRUMENT, INC. v. GBT  
GmbH, Case No. 5:22-cv-01742-JGB (SPx). I agree to comply with and to be bound  
by all the terms of this Protective Order and I understand and acknowledge that failure  
to so comply could expose me to sanctions and punishment in the nature of contempt.  
I solemnly promise that I will not disclose in any manner any information or item that  
is subject to this Protective Order to any person or entity except in strict compliance  
with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court  
for the Central District of California for the purpose of enforcing the terms of this  
Protective Order, even if such enforcement proceedings occur after termination of this  
action. I hereby appoint \_\_\_\_\_ [print or type full name] of  
\_\_\_\_\_ [print or type full address and  
telephone number] as my California agent for service of process in connection with  
this action or any proceedings related to enforcement of this Protective Order.

Date: \_\_\_\_\_

City and State where sworn and signed: \_\_\_\_\_

Printed name: \_\_\_\_\_

Signature: \_\_\_\_\_